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UNITED STATES BANKRUPTCY COURT

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EASTERN DISTRICT OF CALIFORNIA

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FRESNO DIVISION

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In re
CAPITAL FARMS, INC.,
Debtor.

Case No. 25-10074-A-12

Chapter 12

DCN: FW-2

**TECH AG FINANCIAL GROUP, INC.'S
RESPONSE TO MOTION FOR
AUTHORITY TO USE CASH
COLLATERAL**

Hearing Date:

Date: January 22, 2025

Time: 9:30 a.m.

Crtrm: 11, Dept. A
United States Courthouse
2500 Tulare Street
Fresno, California

Hon. Jennifer E. Niemann

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1 **TO THE HONORABLE JENNIFER E. NIEMANN, UNITED STATES**
2 **BANKRUPTCY JUDGE; THE DEBTOR AND ITS ATTORNEYS OF RECORD:**

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4 Creditor Tech Ag Financial Group, Inc. (“Tech Ag”) reserves the right to object to the
5 Motion For Authority to Use Cash Collateral (the “Motion”). The Motion fails to explain much of
6 the background regarding the Debtor’s operations to allow a complete evaluation of the Motion.
7 Accordingly, Tech Ag seeks illumination on the following:

- 8 • What is the relationship between the Debtor, on the one hand, and Sutter Land
9 LLC, Sutter Enterprises, LLC, United Farm LLC, H & J Management, and
10 Sukhwant “Shawn” Singh Gill, on the other hand?¹
- 11 ➤ According to Schedule G, two of the Debtor’s leases are with Sukhwant
12 “Shawn” Singh Gill and three are with Sutter Land LLC. Dkt. 1.
- 13 ➤ A receiver has been appointed over the Debtor, Sutter Land LLC, Sutter
14 Enterprises, LLC, and United Farm LLC. (Appendix of Exhibits [App’x],
15 Exh. 1]²
- 16 • What business are the entities listed above engaged in and how does that relate to
17 the Debtor? What is the basis of the Debtor’s \$342,000 obligation to United Farm
18 LLC listed on Schedule E/F (styled as “United Farms Inc” in the schedule)?
- 19 ➤ According to allegations in a state court action, some of the Debtor’s crops
20 may have been delivered to a crop processor in the name of United Farm
21 LLC. (*See Appx, Exh. 2, ¶ 65.*)
- 22 ➤ Further, according to similar allegations in the same state court action, H &
23 J Management diverted some of the Debtor’s crop proceeds. (*Id.*)

24 ¹ It would be useful if the Debtor provided an organizational chart of the relationship
25 between itself and these entities, and the individuals that own them.

26 ² Tech Ag respectfully requests the Court take judicial notice of the state court pleadings
27 attached to the Appendix pursuant to Rule 201 of the Federal Rules of Evidence. Exhibit 2 is a
28 complaint with a voluminous set of exhibits. The internal exhibits to the complaint have been
 excluded for the sake of brevity.

- 1 • The budget for the Motion is not very clear on what payments are going to whom.
2 Of the entities and the individual in the first bullet point above, what payments in
3 the budget are proposed to be made to those entities and/or the individual?
4 ➤ Are the payments to Sutter Land LLC going to be made to its receiver?
5 ➤ What assurances are there that the rent payments made for the Sutter Land
6 LLC leases will go to the applicable obligations secured by that same real
7 property owned by Sutter Land LLC to avoid the leases being foreclosed
8 out by the landlord's lender(s)?
9 ➤ Is Sutter Land LLC in default to any of its real estate secured lenders, other
10 than Rabo AgriFinance LLC?
11 ➤ Are any of the other landlords in default to their real estate secured lenders?
12 ➤ Is there an SNDA with the landlords' lenders for each lease?
13 • According to paragraph 4 of the Sukhwant "Shawn" Singh Gill declaration in
14 support of the Motion, the Debtor has "significant assets" in Fresno, Sutter, Placer,
15 Madera, Glenn, and Colusa Counties. Per Schedule A/B, the Debtor owns no real
16 property. Schedule G only discloses real property leases for Fresno, Sutter, and
17 Placer Counties. What assets of significance are located in Madera, Glenn, and
18 Colusa Counties?
19 • According to Schedule G, the Debtor intends to cure and assume all leases.
20 ➤ Is the Debtor in default on any of the leases?
21 ➤ What is the rent owed under each lease and when does it come due?
22 ➤ What is the Debtor's estimate of the amount to cure each lease?³
23 • What crop payments or advances were made by the Debtor's crop processors from
24 January 1, 2024 through January 12, 2025, and who received them?

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³ Providing a schedule of the leases, the landlord for each lease, the rent reserved under
28 each lease, when the rent comes due, and the estimated cure amounts would be beneficial.

1 ➤ Schedule D shows that the crop processor, T.M. Duche Nut Co., is owed
2 \$500,000.

- 3 • Are United Farm LLC or H & J Management currently in possession of any crop
4 proceeds that belong to the Debtor?

5
6 Until adequate responses are received on the foregoing, Tech Ag suggests the Court allow
7 cash collateral use on a limited basis, subject to:

- 8 (a) Weekly cash collateral budget for a 13-week period, not a monthly budget;
9 (b) Weekly variance reports;
10 (c) Budget line item variations of only 10%;
11 (d) No insider, affiliate, or lease payments until the next hearing can be held;
12 (e) Post-petition replacement liens to the secured creditors to the same extent, validity,
13 and priority of their pre-petition liens;
14 (f) Access to bank account records for any secured creditor who may be interested in
15 them;⁴ and
16 (f) Other such relief as the Court may order.

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18 DATED: January 17, 2025

FRANDZEL ROBINS BLOOM & CSATO, L.C.
MICHAEL J. GOMEZ
GERRICK M. WARRINGTON

21 By:

/s/ Michael J. Gomez

22 MICHAEL J. GOMEZ

23 Attorneys for Creditor

24 TECH AG FINANCIAL GROUP, INC.

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⁴ At the January 16, 2025 initial hearing, it was suggested that what may have spurred this
28 bankruptcy filing was a refusal to provide access to bank account records.